

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NY 10007

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

(212) 805-0194

September 1, 2020

Jennifer Elaine Willis
Federal Defenders of New York
52 Duane Street, 10th Floor
New York, NY 10007

Re: Raliek Moore v. United States of America
12 Civ. 5854, 01 Cr. 450 (NRB)

Dear Counsel:

As you are aware, the Second Circuit recently granted Mr. Moore's motion for leave to file a successive 28 U.S.C. § 2255 motion. The Circuit noted, however, that Mr. Moore's 18 U.S.C. § 924(c) conviction might still be supported by a valid predicate even if the conspiracy to commit murder predicate is no longer valid. Mr. Moore's § 924(c) conviction appears to have also been predicated on attempted murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(5). Our preliminary research indicates that attempted murder remains a predicate "crime of violence" under § 924(c). Cf. United States v. Sierra, 782 F. App'x 16, 20 (2d Cir. 2019) (summary order) ("We have repeatedly treated it as self-evident that under New York law 'attempted murder is a crime unmistakably involving an attempted use of physical force.'") (quoting United States v. Praddy, 729 F. App'x 21, 24 (2d Cir. 2018) (summary order); see also Abrue v. United States, No. 16 Civ. 5052 (WHP), 2020 WL 4570338, at *1 (S.D.N.Y. Aug. 7, 2020) (denying § 2255 petition on the grounds that attempted murder in aid of racketeering remains a predicate "crime of violence," even after Johnson and Davis).

The Court requests that you inform us by letter within two weeks whether you intend to pursue Mr. Moore's petition. In that regard, we note that Mr. Moore has fully served his jail sentence.

Very truly yours,



Naomi Reice Buchwald
United States District Judge

Cc (via ECF): AUSA Rebecca Talia Dell
1 Saint Andrews Plaza
New York, NY 10001